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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/816,596 | 04/01/2004 | John J. Svabek | 33774.00.0007 | 9535 |
| 7590 11/22/2005 | | | EXAMINER | |
| Joseph P Krause Ladas & Parry LLP 224 South Michigan Avenue Suite 1200 Chicago, IL 60604 | | | CHAN, KO HUNG | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3632 | |

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,596

Applicant(s)

SVÁBEK ET AL

Examiner

Korie H. Chan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Reissue Applications

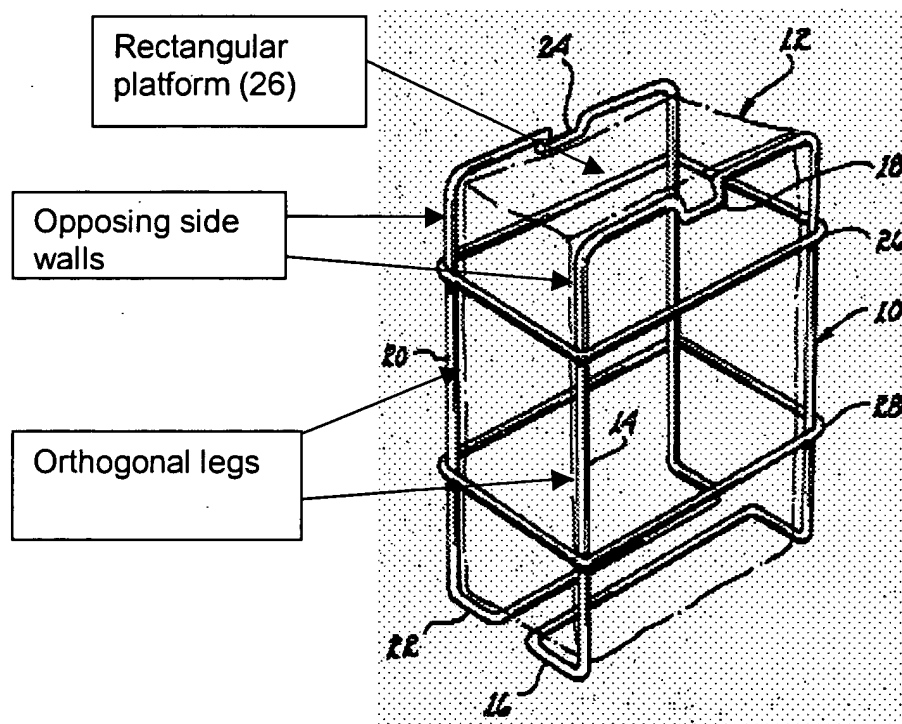
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Meier (US patent no. 4,267,997). Meier discloses a platform comprising a *rectangular* platform (26) with four corners, length and a width having first and second opposing side walls (18 and 24) extend upward from the platform and the side walls being separated by a distance D, two legs (14 and 20) being substantially orthogonal to the upper surface of the platform.



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Regarding applicant's recitation of intended use "adapted to hold a container on the platform b exerting a force on the container, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Meier's rectangular platform is capable of supporting a container on the platform where the container can be of selected width where the width can be slightly larger than or equal to the distance D for a snug fit. Further, Meier's support is capable of supporting a detergent container or beverage containing box.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tedham et al (US patent no. 4,787,585) in view of Meier (US patent no. 4,267,997). Tedham discloses a platform comprising a platform (plane formed by 20 and 22) having first and second opposing side walls (12) extend upward from the platform and the side walls being separated by a distance D, four legs (19) being substantially orthogonal to the upper surface of the platform. However, Tedham does not disclose a platform of

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rectangular shape with four corners. Meier teaches a platform comprising a *rectangular* platform (26) with four corners, length and a width having first and second opposing side walls (18 and 24) extend upward from the platform and the side walls being separated by a distance D, two legs (14 and 20) being substantially orthogonal to the upper surface of the platform. It would have been obvious to one of ordinarily skilled in the art at the time the invention was made to modify Tedham's platform such that it is rectangular shape with four corners as taught by Meier to improve structural strength of the stand.

Regarding applicant's recitation of intended use for a container of a selected width, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Tedham's support is capable of supporting a container of selected width where the width can be slightly larger than or equal to the distance D for a snug fit. Further, Tedham's support is capable of supporting a detergent container or beverage containing box.

Claims 1-10 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 11-25 have been considered but are moot in view of the new ground(s) of rejection.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art of record demonstrate various wire stands with platform and upstanding sides.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan
Primary Examiner
Art Unit 3632

khc
November 14, 2005